

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0621

MANDATORY PENALTY
IN THE MATTER OF

STALLION SPRINGS COMMUNITY SERVICES DISTRICT
WASTEWATER TREATMENT FACILITY
KERN COUNTY

This Complaint is issued to the Stallion Springs Community Services District (Stallion Springs CSD or Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL), CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2002-0054 (NPDES No. CA0080489) at its Wastewater Treatment Facility (WWTF).

The Assistant Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) finds the following:

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system and provides sewerage service for the unincorporated community of Stallion Springs. Treated wastewater is discharged to Chanac Creek, a water of the United States and tributary to Tejon Creek.
2. On 25 October 1996, the Central Valley Water Board issued WDRs Order 96-261 to regulate, in part, the discharge of up to 0.10 million gallons per day (mgd) of disinfected secondary treated domestic wastewater from the WWTF to Chanac Creek.
3. On 26 April 2002, the Central Valley Water Board issued WDRs Order R5-2002-0054, which prescribed new requirements for the discharge and rescinded WDRs Order 96-261.
4. On 12 June 2008, the Central Valley Water Board issued WDRs Order R5-2008-0091, which prescribed new requirements for the discharge and rescinded WDRs Order R5-2002-0054.
5. CWC section 13385(h)(1) requires assessment of mandatory penalties and states, in part, the following:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation

6. CWC section 13385.1(a)(1) states:

For purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations

7. CWC section 13385(i) requires assessment of mandatory penalties and states, in part, the following:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

A) Violates a waste discharge requirement effluent limitation.

B) Fails to file a report pursuant to Section 13260.

C) Files an incomplete report pursuant to Section 13260.

D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

8. CWC section 13323 states, in part, the following:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

9. WDRs Order R5-2002-0054 Discharge Specification B.5 stated, "The daily maximum and 7-day median total coliform organism concentration of effluent shall not exceed 240 and 23 most probable number (MPN) per 100mL, respectively."

10. Monitoring and Reporting Program R5-2002-0054 stated, in part, that: "Monitoring results shall be submitted to the Regional Board by the 1st day of the second month following sample collection."

11. On 5 November 2008, Central Valley Water Board staff (staff) issued the Discharger a Notice of Violation and a draft Record of Violations identifying violations of WDRs Orders 96-261, R5-2002-0054, and R5-2008-0091 that are subject to Mandatory Minimum Penalties (MMPs). The draft Record of Violations covers the period of 1 January 2000

through 31 July 2008 and identifies four violations of the effluent limitation for total coliform organisms, 29 violations of the effluent limitations for total residual chlorine, and five serious late reporting violations.

12. By 18 November 2008 letter, the Discharger responded to the 5 November 2008 Notice of Violation and draft Record of Violations and provided information clarifying the manner in which it reports effluent total chlorine residual is its monthly self-monitoring reports. Upon receipt of this information, staff determined that the days on which the Discharger reported exceedances of the effluent limitation for total chlorine residual, identified in the draft Record of Violations as violations subject to MMPs, were days when effluent was retained in a storage pond and **not** discharged to Chanac Creek. WDRs Order R5-2002-0054 required the Discharger to monitor effluent total chlorine residual at the point of discharge from the ponds. The Discharger continued to monitor total chlorine residual in effluent discharged to the storage pond even when no effluent was discharged to Chanac Creek. No effluent was discharged on days when effluent total chlorine residual was reported to exceed the limitation. Board staff dismissed violations created in the California Integrated Water Quality System database of the effluent total chlorine residual limitation when the violations occurred when no effluent was discharged to Chanac Creek. The Discharger's 18 November 2008 letter did not provide evidence to indicate any of the remaining violations identified in the draft Record of Violations were in error or otherwise should not be subject to MMP. The final Record of Violation, which is included as Attachment A to this Complaint, identifies one (1) chronic non-serious effluent limitation violation subject to MMP pursuant to CWC section 13385(i) and five (5) serious late reporting violations subject to MMPs pursuant to CWC section 13385.1.
13. The total amount of the MMPs assessed for the violations cited in Attachment A is **eighteen thousand dollars (\$18,000)**.
14. Issuance of this Administrative Civil Liability Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

STALLION SPRINGS COMMUNITY SERVICES DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **eighteen thousand dollars (\$18,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **5/6 February 2009**, unless the Discharger does either of the following **by 30 December 2008**:

- a. Waives the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **eighteen thousand dollars (\$18,000)**; or
 - b. Agrees to enter into settlement discussions with the Central Valley Water Board and requests that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and returning it to the Central Valley Water Board.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

LOREN J. HARLOW, Assistant Executive Officer

Attachment A: Record of Violations

WAIVER OF 90-DAY HEARING REQUIREMENT FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to **represent** Stallion Springs Community Services District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2008-0621 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4. ☐ **(Check here if the Discharger will waive the hearing requirement and will pay the fine)**
 - a. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **eighteen thousand dollars (\$18,000)** by **two** checks, that both contain a reference to "ACL Complaint R5-2008-0583." One check is to be in the amount of **three thousand dollars (\$3,000)** made payable to the "State Water Pollution Cleanup and Abatement Account," and one check is to be in the amount of **fifteen thousand dollars (\$15,000)** and made payable to the "Waste Discharge Permit Fund." Payment must be received by the Central Valley Water Board by **30 December 2008** or this matter will be placed on the Central Valley Water Board's agenda for adoption as initially proposed in the Complaint.
 - b. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. New information or comments include those submitted by personnel of the Central Valley Water Board who are not associated with the enforcement team's issuance of the Complaint.
 - c. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

-or-

5. ☐ **(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0621
STALLION SPRINGS COMMUNITY SERVICES DISTRICT
WASTEWATER TREATMENT FACILITY
RECORD OF VIOLATIONS (1 January 2000 – 31 July 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs 96-261, R5-2002-0054, and R5-2008-0091)

| <u>Violation ID</u> ¹ | <u>Violation Date</u> | <u>Violation Type</u> ² | <u>Violation Description</u> ³ | <u>MMP Type</u> ⁴ |
|----------------------------------|-----------------------|------------------------------------|---|------------------------------|
| 208511 | 6/17/2002 | OEV | 6M; TCO; 240; MPN/100 ml; D; 500 | Exempt |
| 783906 | 6/27/2002 | OEV | 6M; TCO; 23; MPN/100 ml; 7-day median; 50 | Exempt |
| 208568 | 6/29/2002 | OEV | 6M; TCO; 240; MPN/100 ml; D; 500 | Exempt |
| 783909 | 7/1/2002 | OEV | 7M; TCO; 23; MPN/100 ml; 7-day median; 50 | Chronic |
| 777605 | 5/2/2007 | LREP | 3M; SMR, due 5/1/07, received 6/07/07 (36 days late) | Serious |
| 777614 | 6/2/2007 | LREP | 4M; SMR; due 6/1/07, received 07/09/07 (38 days late) | Serious |
| 777617 | 8/2/2007 | LREP | 6M; SMR, due 8/1/07, received 10/12/07 (72 days late), 1st 30-day period | Serious |
| 777639 | 8/2/2007 | LREP | 6M; SMR, due 8/1/07, received 10/12/07 (72 days late), 2nd 30-day period | Serious |
| 777641 | 9/2/2007 | LREP | 7M; SMR; due 9/1/07, received 10/12/2007; (41 days late); | Serious |

¹ Violation ID in CIWQS.

² Table of Abbreviations below defines abbreviations used in this table.

³ Violation Descriptions are coded as follows: Reporting period (e.g., 2M = February); constituent or parameter (e.g., pH, Flow); effluent limitation; units; limitation period; and reported result.

⁴ Exempt non-serious violations fall within the first three violations in a six-month period, thus are exempt. Serious and chronic non-serious effluent limitation violations are subject to mandatory penalties.

| <u>Abbreviation</u> | <u>Definition</u> |
|---------------------|---|
| CIWQS | California Integrated Water Quality System database |
| D | Daily |
| LREP | Report late more than 30 days past due date |
| MMP | Mandatory Minimum Penalty |
| MPN | Most Probable Number |
| OEV | Other Effluent Violation |
| SMR | Self-Monitoring Report |
| TCO | Total Coliform Organisms |

| <u>MMP VIOLATION TYPE</u> | <u>VIOLATION PERIOD 1/1/2000 TO 7/31/2008</u> |
|--|---|
| Serious Late Reporting Violations Subject to MMPs: | 5 |
| Chronic Non-serious Violations Subject to MMPs: | 1 |
| Total Violations Subject to MMPs: | 6 |
| Non-serious Violations Exempt from MMPs: | 3 |
| MMP = (5 Serious Violations + 1 Non-Serious Violation) x \$3,000 = \$18,000 | |